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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/391,966	09/08/1999	RICHARD J. DITZIK		9391

27058 7590 09/30/2003

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307 SURREY DRIVE  
SAN DIEGO, CA 91902

EXAMINER
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KINCAID, LESTER G

ART UNIT	PAPER NUMBER
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2685

DATE MAILED: 09/30/2003

38

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/391,966

Applicant(s)

DITZIK, RICHARD J.

Examiner

Lester G. Kincaid

Art Unit

2685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 54,56-58,60-62 and 64-69 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 54,56-58,60-62 and 64-69 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/4/03 has been entered.

### ***Specification***

2. The disclosure is objected to because of the following informalities: on the first page, the continuation/divisional application information is not up to date. The examiner suggests amending the continuation/divisional application information to contain the patent number and issue date.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claims 54, 56-58, 60-62, 64-69** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Claim 54** is a method "for handset unit communication", however it is not clear how or where a "handset" participates or is included in the recited steps, since there is no further mention of a "handset". Assuming that steps a and b are from and to the handset, step c's "relaying said data" is not consistent with the disclosure and arguments. That is, it seems (from the disclosure and arguments) as if the handset can optionally communicate with one of the local base and external wan, however the recited claim terminology "relaying said data" implies that it is the data transmitted to/from the local base (from steps a and b) that can be optionally communicated to itself or the wan, which doesn't make sense.

**Claim 54** recites the limitation "said data for data communication" in line 7 and "said data" in line 10. There is insufficient antecedent basis for these limitations in the claim. It is not clear if this is the same limitation or not. Nor is it clear whether said data refers to the data of step a, b, or both.

**Claim 62** is a method "for handset unit communication", however it is not clear how or where a "handset" participates or is included in the recited steps, since there is no further mention of a "handset".

**Claim 62** recites the limitation "said data" in lines 8 and 9. There is insufficient antecedent basis for this limitation in the claim. It is not clear whether "said data" refers to the data of step a, b, c, or any combination thereof.

***Claim Objections***

5. **Claim 58** is objected to because of the following informalities: on line 2, after "handset" the examiner suggests inserting --is--. Appropriate correction is required.
6. **Claim 54** is objected to because of the following informalities: each of steps a, b, and c recite "a portable local communication base unit", the examiner suggests changing 'a' to --the--, in steps b and c. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. **Claims 54, 56-58, 60-62, and 64-69** are rejected under 35 U.S.C. 102(e) as being anticipated by Puthuff (U.S. Patent 6,112,103).

As to **claim 54**, as best understood considering the indefiniteness cited above, Puthuff provides for a method for handset (PCN100 - connected to cellular telephone 302, PC 308, earpieces 400, 402, etc.) communication, comprising the steps of:

a-b) wirelessly transmitting data between the handset and a portable base (PCN 200) see col. 3, lines 8-67 and col. 4, lines 1-59;

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c) relaying (col. 3, lines 34-43 recite that the PCN could be directly connected to a PC for internet applications while lines 60-67 recite that the PCN can be connected through adapter 200 via another device such as a LAN);

d) communicating for computer use and for bi-directional communication (see col. 3, lines 1-67).

**Claims 56, 57, 58, 60, and 61** are considered only to be intended uses and fail to further patentably limit the claims.

**Claims 62, 64, 65, 66, 67, 68, and 69** are considered to be broader in scope than the preceding claims and therefore also read on Puthuff as applied above.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Inkinen (U.S. Patent 5,809,115) and Warsta et al. (U.S. Patent 5,896,369) further provide for mobile communication with a computer.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lester G. Kincaid whose telephone number is (703) 306-3016. The examiner can normally be reached on Monday through Friday from 7:30 a.m. to 4:00 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (703) 305-4385.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 2600 Customer Service Office at (703) 306-0377.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 872-9314 (Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

LGK  
September 22, 2003



LESTER G. KINCAID  
PRIMARY EXAMINER